IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

(3)

WRIT PETITION No. 2583/ 2001

PETITIONER : Sunder Lal Dhritlahre,
S/o Ramcharan Dhritlahre,
aged about 37 years,
Nayab Tahsildar (under suspension)
Bemetara, Tahsil Bemetara,
Distt. Raipur (C.G.)

P. R. No. 2580
Presented by Shri Y.S. Tamrakar
dated 6/12/01

VERSUS

RESPONDENTS :

1. The State of Madhya Pradesh
Through - Secretary
Law and Legislative Affairs
Department, Govt. of M.P.,
Mantralaya, Bhopal (M.P.)

2. Shri T.P. Sharma
Additional Secretary,
Law and Legislative Affairs
Department, Govt. of M.P.,
Mantralaya,
Vallabh Bhawan, Bhopal (M.P.)

At present posted as
Additional District and
Sessions Judge, Korea,
District Korea, (Chhattisgarh).

3. Principle Secretary,
Revenue Department,
Govt. of Chhattisgarh,
D.K. Bhawan, Raipur (C.G.)

(4)

4. State of Chhattisgarh,
through - Supdt. of Police,
Special Police Establishment
Lokayukt, Raipur (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(50)

आदेश पत्रक

WP No. 2583/01

मामला क्रमांक ..... **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14/7/2004

Shri V.G. Tamaskar for the petitioner.

Shri Sanjay S. Agrawal, Govt. Adv., for the State.

Application for urgent hearing is allowed.

Learned counsel for the petitioner prays for deleting the name of respondent no.2 from the array of parties.

Not opposed. The name of respondent no.2 be deleted from the array of parties.

Heard.

The petitioner, who was Naib Tehsildar, was prosecuted for an offence punishable under Sections 7-13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. He was placed under suspension vide order dated 25/2/1999. He continued under suspension. He was however acquitted by the Addl. Special Judge, Durg vide judgment dated 6/3/2000. It is submitted that after his acquittal, the suspension was not revoked. It is submitted that as per Annexure-P/4, the Chief Minister has also recommended to revoke the suspension order of the petitioner. It is also submitted that notices on merits as well as M.W.P. were issued but neither the return nor the reply has been filed and the matter itself is pending since 2001.

Learned counsel for the State on the other hand submitted that against the acquittal of the petitioner, State has preferred appeal before this Court, which is pending consideration.

Learned counsel for the petitioner placed reliance upon the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(57)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

judgment of the Apex Court in the case of Union of India and others vs. Jaipal Singh reported in 2004(1) SCC 121 and the judgment of Gujrat High Court in the case of Mukesh Kumar Premshankar Joshi vs. State of Gujarat and another reported in 2004 LAB.I.C. 271. It is submitted that the order was passed in view of the pendency of the criminal case, however the petitioner was acquitted and no departmental enquiry is pending against him, therefore, it is not open for the department to continue further suspension in view of filing of the criminal appeal against the order of acquittal. It is further submitted that it is a settled principle of law that if prosecution, which ultimately resulted in acquittal of the person concerned was at the behest of or by the department itself, perhaps different considerations may arise.

In Mukesh Kumar (supra), Gujarat High Court has held as under:

> *"... It is required to be noted that the petitioner is acquitted and even at present, no departmental enquiry is pending against him. In that view of the matter, there is absolutely no justifiable reason for the Department not to reinstate the petitioner by revoking the suspension order. It is a matter of pity that since 2000, the petitioner is requesting the Department to give him appropriate posting order by revoking the suspension order in view of the acquittal order; yet, without any justifiable ground, suspension order is not revoked by the Department. Instead, the Deputy Secretary informed the petitioner, by letter dated 18th September, 2002 that since Criminal appeal is filed against the judgment of the Sessions Court, the petitioner is required to be kept under suspension. It is difficult to appreciate as to under which provision the Secretary has taken such view. When there is an order of acquittal, it was the duty of the Department to revoke*

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(S2)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the suspension order in view of the acquittal order. Simply because the appeal is pending is no ground to continue the petitioner under suspension especially when the suspension order itself is passed in view of the pendency of the criminal case.

The learned advocate for the petitioner has also relied upon the decision of this Court in Special Civil Application No. 2960 of 1997, which is annexed with the compilation at page 12. This Court has also taken the view that the petitioner cannot be continued under suspension under the guise that some complaints are pending investigation. In the aforesaid case, in view of the acquittal of the petitioner, in connection with the criminal case, it was held that the petitioner therein is entitled to reinstatement irrespective of the pendency of the revision application before this Court."

Having considered the facts and circumstances, the material on record and in view of the aforesaid judgments, it is directed that the order of suspension is revoked from the date of acquittal of the petitioner. Since the petitioner was suspended during the pendency of the criminal case and he has been acquitted, he is entitled for consequential benefits from the date of acquittal.

Subject to what has been stated above, this petition stands disposed of.

Consequently, M.W.P. No.1177/03 stands disposed of.

Certified copy as per rules.

Sd/-
Fakhruddin
Judge

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